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Fish & Richardson P.C.
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OFFICE OF PETITIONS

In re Application of :
Egendorf :
Application No. 09/975,839 :
Filed: October 11, 2001 :
Issued: December 13, 2005 :
Attorney Docket No.22188- :
002001 :
: DECISION DISMISSING PTA
: RECONSIDERATION
:
:

This decision is in response to applicant's REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT on April 11, 2007¹ requesting that the Office extend the term of the patent from a determination of two hundred and ninety (290) days to a determination of seven hundred and seventeen (717) days.

Applicant's letter regarding PTA is **DISMISSED as being filed untimely**. Because the petition is being dismissed as untimely, the Office will not address the merits of patentee's arguments.

Rules, Regulations, and Statutes

35 USC 154(b)(4)(A) provides:

APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION.-

(A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

37 CFR 1.705(d) and (e) provide:

¹It is noted that the patent issued on December 13, 2005 and the request for reconsideration of the patent term adjustment is being filed approximately 16 months later.

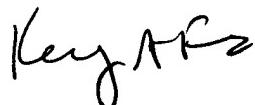
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(d) If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

(e) The periods set forth in this section are not extendable.

Because the applicants have not availed timely themselves of either an administrative remedy nor their statutory remedy, the petition is dismissed.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy